



NEW JERSEY LAW REVISION COMMISSION

Final Report Regarding

Prisons and Youth Correctional Facilities -

Farms, Camps, and Quarries (N.J.S. 30:4-136; N.J.S. 30:4-146)

February 15, 2024

The work of the New Jersey Law Revision Commission is only a recommendation until enacted.

Please consult the New Jersey statutes to determine the law of the State.

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Project Summary

Since 1918, the statutory definition of “State Prison” has included “the existing prison in Trenton.”¹ The definition of youth correctional institutions “include the existing Youth Reception and Correctional Center, Yardville, and the Youth Correctional Institutions at Bordentown and Annandale.”² These statutes, defining places of incarceration, also include references to “any and all farms,³ camps,⁴ *quarries* or grounds” where individuals sentenced to incarceration “may from time to time be kept, housed, or employed.”⁵

While the New Jersey Department of Corrections (“NJDOC” or “DOC”) and the Juvenile Justice Commission (“JJC”) maintain correctional farms and camps, neither entity operates a prison quarry. The statutory references to quarries appear to be outdated.^{6,7}

The Commission recommends the elimination of the anachronistic statutory references to quarries and the clarification of the language regarding where persons convicted of criminal offenses or those found to be delinquent may be confined by the DOC.

Statutes Considered

N.J.S. 30:4-136. State prison defined

The State Prison shall include the existing prison in Trenton or wherever it may hereafter be located, and all institutions, farms, camps, **quarries** or grounds designated by the State Board where convicts sentenced to the State Prison may from time to time be kept, housed or employed.

N.J.S. 30:4-146. Youth correctional institution complex defined

The Youth Correctional Institution Complex shall include the existing Youth Reception and Correctional Center, Yardville, and the Youth Correctional Institutions at Bordentown and Annandale and all new or additional institutions, farms, camps, **quarries** or grounds designated by the State board, where persons

¹ N.J. STAT. ANN. § 30:4-136 (West 2024).

² N.J. STAT. ANN. § 30:4-146.

³ See N.J. STAT. ANN. § 30:4-92 (providing that sufficiently trustworthy inmates are permitted to be employed in honor camps or farms); N.J. STAT. ANN. § 30:4-98 (granting State Board the power to assign any number of inmates of an institution to meet any emergency arising from scarcity of labor on farms); N.J. STAT. ANN. § 30:4-144 (noting that eight hours’ service constitutes a full day’s labor for those employed at the state prison farm at Leesburg); N.J. STAT. ANN. § 30:4-145 (providing for the appropriation for the transportation of prisoners and guards to and from the prison farms and camps); N.J. STAT. ANN. § 30:4-179 to -182 (referring in each of the four statutes to “farmer guards”).

⁴ See N.J. STAT. ANN. § 30:4-92 (providing that sufficiently trustworthy inmates are permitted to be employed in honor camps or farms); N.J. STAT. ANN. § 30:4-145 (providing for the appropriation for the transportation of prisoners and guards to and from the prison farm and camps).

⁵ N.J. STAT. ANN. §§ 30:4-136 and 4-146. (Emphasis added).

⁶ See *infra* discussion of the NJDOC’s “Offender and Characteristics Report” at p. 11.

⁷ N.J. STAT. ANN. § 1:12A-8(a) (mandating that the Commission “[c]onduct a continuous examination of the general and permanent statutory law of this state... for the purpose of discovering... anachronisms...”).

sentenced to the Youth Correctional Institution Complex may, from time to time, be kept, housed or employed.

Background

There is little in New Jersey’s history of prison labor that explains the reason for the inclusion of the terms *farms, camps, and quarries* in the definition of “State Prison.”⁸ The reports from the early 1900s on the subjects of prison labor⁹ and its reform¹⁰ suggest that the elimination of contract labor and the problem of prison overcrowding appear to have influenced the inclusion of these geographic locales in New Jersey’s statutes.

In the early 1900s, New Jersey Legislature created two Commissions to address the employment-related changes that resulted from the State’s abolition of contract labor.¹¹ The Convict Labor Commission was tasked with formulating “a comprehensive plan for the initiation and use of the labor of all convicts on public roads, in public parks, in forestry and in other ways to be the public benefit, not in competition with free labor.”¹² The Prison Labor Commission had “executive authority and control of the prisoners in their working hours” and recommend “changes in the law and [the] adjustment of authority and responsibility.”¹³

At that time, New Jersey had one central prison, built in the early 1800s, which was located in Trenton and subsequently “developed from the early times of the state’s history.”¹⁴ During the next century, the prison grew and filled its original five-acre tract of land with “numerous cell houses, workshops and other buildings.”¹⁵ The expansion of the prison left the facility with little vacant space.¹⁶ The growth of the facility made it “practically impossible to provide a suitable exercise court for the prisoners during the very short daily intervals when they may have a glimpse of the sky and an opportunity to fill their lungs with fresh air....”¹⁷

The prison in Trenton was not the only facility in the New Jersey penal system at that time. The New Jersey prison system also included “a reformatory of *limited acreage* at Rahway for men, [and] a reformatory site for women on a large *farm* near Clinton....”¹⁸ Each of these sites required

⁸ N.J. STAT. ANN. §§ 30:4-136 and 4-146 (noting the absence of any legislative history).

⁹ Sydney Wilmot, *Use of Convict Labor for Highway Construction in the North*, Proceedings of the Acad. of Pol. Sci. in the City of New York, Vol. 4, No. 2, 6, 36 (Jan. 1914).

¹⁰ C. L. Stonaker, Gen. Sec’y, N.J. State Charities Aid & Prison Reform Ass’n, *Prison Labor Reform in New Jersey*, The Annals of the American Academy of political and Social Science, Vol. 46, Prison Labor 154-60 (Mar. 1913).

¹¹ Stonaker, *supra* note 10, at 154. *See generally* The 1885 Alien Contract Labor Law (“Foran Act”) Sess. II Chap. 164; 23 Stat. 332 (Feb. 26, 1885) (making it unlawful “to prepay the transportation, or in any way encourage the importation or migration of any alien or aliens... into the United States... under any contract agreement... made previous to the importation or migration of such alien... to perform labor or service of any kind in the United States....”).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 155.

¹⁸ *Id.* (Emphasis added).

the construction of permanent buildings in which to house its prisoners.¹⁹ In addition to the twenty-one county jails, New Jersey maintained three workhouses.²⁰ The workhouses did not utilize contract labor and “no form of labor [had] been devised for the county jail, other than conventional stone piles, the product of which [was] used on the county roads.”²¹

On April 11, 1910, the Legislature authorized the “outside employment of prisoners.”²² In the Spring of 1912, New Jersey enacted laws that authorized the use of prisoner labor on public roads.²³ Before 1913, the State of Jersey did not utilize the labor of individuals convicted of criminal offenses on the roads of New Jersey.²⁴ At that time, New Jersey was considered a “pioneer among eastern states in using convict labor....”²⁵ The use of this readily available labor pool was justified as a means of alleviating New Jersey’s burgeoning prison population.²⁶ When the prison labor legislation was enacted “there were but 1300 cells for over 1450 men.”²⁷

To ameliorate the crowded prison conditions and the limited facility space, the Prison Labor Commission recommended that the State acquire a large tract of land on which to build new prison facilities.²⁸ In September 1913, “a prison farm was purchased consisting of 1,000 acres of waste land near Leesburg in Cumberland County.”²⁹ The Commission believed that “for a moderate cost the prisoners [could] clear the land and bring it under profitable cultivation.”³⁰ The establishment of this prison farm meant that “a considerable portion of the state convicts [could be housed] upon this farm tract, thereby materially reducing the population within the prison walls at Trenton.”³¹

The State did not foreclose the possibility of other non-prison settings in which to house its prisoners. By 1913, “[r]oad building and maintenance and repair of state highways, including a stone quarry and a crushing plant, park development and forestry [were] yet to be worked out.”³² By 1917, New Jersey established four “road camps” that employed prisoners on the roads of the state.³³ These camps were lauded for their success, which was attributed to the “hygienic and disciplinary value of the outdoor work.”³⁴ In time, the Mercer County Workhouse Quarry would be utilized to process rock into subbase material for the county road department.³⁵ Before that time,

¹⁹ *Id.*

²⁰ *Id.* (Trenton, Newark, and Jersey City).

²¹ *Id.*

²² George W. Kirchwey, Report of the New Jersey Prison Inquiry Commission, 9 J. Am. Inst. Crim. L. & Criminology 207, 223 (May 1918 to Feb. 1919).

²³ Wilmot, *supra* note 9, at 276.

²⁴ *Id.*

²⁵ *Id.* (noting that New Jersey was “[f]ollowing the lead of Colorado, other western states, and Onondaga County, New York” in the use of prison labor).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Stonaker, *supra* note 10, at 156.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Kirchwey, *supra* note 22, at 223.

³⁴ *Id.*

³⁵ *Mercer County Workhouse Quarry, Moore, Hopewell Twp., Mercery Co., N.J., USA*, MINDAT.ORG, <https://www.mindat.org/loc-8362.html#> (last visited Apr. 05, 2023).

“Mercer County had used a few [prisoners] in its stone-crushing quarry....”³⁶ Similarly, some of the prisoners in the Essex County penitentiary engaged in quarry-type work.³⁷

In the New Jersey Laws of 1918, specific provisions relating to correctional institutions and reformatories were enacted by the Legislature.³⁸ The definition of “state prison” included “the existing prison in the city of Trenton... and all *farms, camps, quarries* or grounds where the convicts sentenced to State Prison may from time to time be kept, housed or employed.”³⁹ With only minor modifications in 1948, the substance of this statute was the basis of N.J.S. 30:4-136.⁴⁰ Similarly, the Legislature defined the New Jersey Reformatory which at the time was near the city of Rahway to include “the existing reformatory... and any and all farms, camps, quarries, or grounds, where the prisoners sentenced to the reformatory may, from time to time, be kept, housed or employed.” Although this statute was amended in 1948,⁴¹ 1963,⁴² and 1970,⁴³ the references to *farms, camps, and quarries* remain part of what is now N.J.S. 30:4-146.

In 1976, the Legislature established the Department of Corrections in the Executive Branch of the State Government.⁴⁴ To this time, the DOC “provide[s] for the custody, care, discipline, training and treatment of adult offenders committed to State correctional institutions or on parole....”⁴⁵ In addition, the DOC is responsible for “[d]evelop[ing] alternatives to conventional incarceration for those offenders who can be dealt with more effectively in less restrictive, community-based facilities and programs.”⁴⁶

When the DOC was created, it assumed control and supervision of the State’s eight correctional institutions – none of which contained a quarry.⁴⁷ In addition, the DOC was given authority over “[a]ny State institution and satellite facilities....”⁴⁸ The DOC’s control over any state institution or satellite facility where prisoners are housed included farms and camps.

³⁶ *Wilmot, supra* note 9, at 36.

³⁷ *Id.* (Stone crushing by hand labor commissioned at a rate of fifteen cents per day).

³⁸ *Compare* L. 1918, c. 147, § 301, p. 364 (defining state prison); L. 1918, c. 147, § 315, p. 367 (defining youth correctional institution complex) *with* N.J. STAT. ANN. §§ 30:4-136 and 4-146.

³⁹ L. 1918, c. 147, § 301, p. 367. (Emphasis added).

⁴⁰ *See supra* Statutes Considered at 1.

⁴¹ L. 1948, c. 60, § 3.

⁴² L. 1963, c. 65, § 1.

⁴³ L. 1970, c. 300 § 3.

⁴⁴ N.J. STAT. ANN. § 30:1B-2. *See* N.J. STAT. ANN. § 30:1B-8 (transferring control of State Correctional Institutions from the Department of Institutions and Agencies to the Department of Corrections including “[a]ny State institution and satellite facilities....”).

⁴⁵ *Id.*

⁴⁶ N.J. STAT. ANN. § 30:1B-2(a)(2).

⁴⁷ *See* N.J. STAT. ANN. § 30:1B-8 (New Jersey State Prison, East Jersey State Prison, Bayside State Prison, Garden State Reception and Youth Correctional Facility; Albert C. Wagner Youth Correctional Facility; Edna Mahan Correctional Facility for Women; William H. Fauver Correctional Facility; and Adult Diagnostic and Treatment Center, Avenel).

⁴⁸ *Id.*

State Prison, State Correctional Facility, Penal Institution

When imposing a *State* prison sentence, the judge does not specify the facility to which a defendant will be confined. For sentences that exceed one year “the court shall commit [the defendant] to the custody of the Commissioner of the Department of Corrections for the term of [the defendant’s] sentence and until released in accordance with law.”⁴⁹ The Legislature has empowered the Commissioner of the Department of Corrections “to determine a specific State correctional institution... for the proper and secure incarceration of the inmate.”⁵⁰

• *The State Prison*

In New Jersey, the term “state prison” appears in thirty-three statutes.⁵¹ The term, however, is defined only once.⁵² Since 1948, N.J.S. 30:4-136 has defined “State Prison,” with a direct reference to the then-existing State Prison located in Trenton – or wherever it may subsequently be located.⁵³ The definition is broad enough to encompass “all institutions” where the DOC may confine individuals serving a state prison term,⁵⁴ indicating that the New Jersey State Prison is one of the many penal institutions managed by the DOC.⁵⁵

⁴⁹ N.J. STAT. ANN. § 2C:43-10(a) (providing two exceptions – young adult offenders as set forth in N.J.S. 2C:43-5; and a person sentenced to imprisonment for a return not exceeding 18 months, who may be committed to a county correctional facility).

⁵⁰ N.J. STAT. ANN. § 30:4-85.1.

⁵¹ N.J. STAT. ANN. § 160-10 (fugitives from justice found in this state); N.J. STAT. ANN. § 2C:29-10 (electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 2C:35-14.1 (mandatory professional diagnostic assessments); N.J. STAT. ANN. § 2C:35-14.2 (determination as to drug dependency status prior to sentencing); N.J. STAT. ANN. § 2C:43-10 (place of imprisonment); N.J. STAT. ANN. § 5:5-71 (unlawful acts); N.J. STAT. ANN. § 9:17B-2 (laws unaffected by act); N.J. STAT. ANN. § 21:1A-142 (possession of explosive bombs); N.J. STAT. ANN. § 22A:4-8 (fees and mileage of sheriffs and other officers); N.J. STAT. ANN. § 30:1B-6.6 (legislative findings and declarations); N.J. STAT. ANN. § 30:1B-8 (transfer of correctional institutions to DOC); N.J. STAT. ANN. § 30:1B-8.1 (references to certain prisons as re-named); N.J. STAT. ANN. § 30:4-6 (duties of chief executive officer); N.J. STAT. ANN. § 30:4-8.1 (prisoners at bedside or funeral of dying or deceased relative); N.J. STAT. ANN. § 30:4-16.5 (definition of “Inmate”); N.J. STAT. ANN. § 30:4-82.7 (definition of “state correctional facility”); N.J. STAT. ANN. § 30:4-85 (transfers to State prison); N.J. STAT. ANN. § 30:4-85.1 (transfer of persons committed to county jails, etc.); N.J. STAT. ANN. § 30:4-88 (prisoners conveyed by sheriffs); N.J. STAT. ANN. § 30:4-91.3c (definition of state correctional facility); N.J. STAT. ANN. § 30:4-123.51 (eligibility for parole); **N.J. STAT. ANN. § 30:4-136 (State prison defined)**; N.J. STAT. ANN. § 30:4-139 (United States prisoners); N.J. STAT. ANN. § 30:4-144 (hours of practice); N.J. STAT. ANN. § 30:4-145 (advances for transporting guards and prisoners); N.J. STAT. ANN. § 30:4-147 (classes committed); N.J. STAT. ANN. § 43:21-19 (definitions); N.J. STAT. ANN. § 48:12-109 (State officials and employees entitled to free transportation); N.J. STAT. ANN. § 51:3-3 (injuring pillars); N.J. STAT. ANN. § 52:13-10 (sentence; order of commitment); N.J. STAT. ANN. § 53:1-20.3 (release of prisoners); N.J. STAT. ANN. § 30:3-5(2) (use of moneys); and N.J. STAT. ANN. § 30:3-6(1) (appropriation from state institutional construction fund).

⁵² N.J. STAT. ANN. § 30:4-136.

⁵³ *Id.* See N.J. STAT. ANN. § 30:1B-8.1 (renaming Trenton State Prison to New Jersey State Prison); and N.J. STAT. ANN. § 30:1B-8.2 (prohibiting any correctional institution from including “as part of its name or title the name of any local governmental unit.”).

⁵⁴ N.J. STAT. ANN. § 30:4-136.

⁵⁵ *cf. State v. J.Z.*, No. A-4480-11T2, 2014 WL 2591273, *2 (App. Div. June 11, 2014) (noting that although the DOC is responsible for the operation of the Special Treatment Unit, this facility it is not a State prison or penal institution rather it is a facility for the “custody, care, and treatment of sexually violent predators.”).

A defendant who is sentenced to a State prison term may be confined to any one of a number of locations within the organizational framework of the DOC.⁵⁶ Currently, the DOC oversees nine “main facilities,”⁵⁷ the Adult Diagnostic and Treatment Center, and any State institution or satellite facility.⁵⁸ Of these facilities, five include “State Prison”⁵⁹ in their name and three are identified as “correctional facilities.”⁶⁰ The names of these institutions suggest that the definition of State Prison should be broad enough to include any institutions or facilities designated by the Commissioner as a place of confinement.⁶¹

- *State Correctional Facility*

In New Jersey, the term “state correctional facility”⁶² is utilized in fifty-five statutes and has several different meanings.⁶³ It is defined in four separate statutes, each with a unique

⁵⁶ *McBride v. McCorkle*, 44 N.J. Super. 468, 474 (App. Div. 1957) (noting that “The State Prison is one of the institutions within the organizational frame of the New Jersey Department of Institutions and Agencies.”). See discussion *supra*, Background, pp. 3-4.

⁵⁷ State of N.J., Dep’t of Corr., <https://www.state.nj.us/corrections/pages/index.shtml> (follow “Facilities” hyperlink). See also N.J. STAT. ANN. § 30:1B-8 (providing that the DOC

⁵⁸ N.J. STAT. ANN. § 30:1B-8 (transferring then existing correctional institutions to the Department of Corrections along with “[a]ny State institution or satellite facilities heretofore or hereafter established” for any purpose similar to those enumerated in the statute).

⁵⁹ *Id.* (Bayside State Prison; East Jersey State Prison; New Jersey State Prison; Northern State Prison; and Southwoods State Prison).

⁶⁰ *Id.* (Edna Mahan Correctional Facility for Women; Garden State Youth Correction; and Mid-State Correctional Facility).

⁶¹ See N.J. STAT. ANN. § 30:4-91.2.

⁶² For purposes of this Report, the focus was limited to state correctional facilities under the purview of the Commissioner of the Department of Corrections. *But cf.*, N.J. STAT. ANN. § 30:4-82.7 (defining county correctional facility as a “county jail, penitentiary, prison or workhouse.”) and *Bonilla v. Heil*, 126 N.J. Super. 538, 542 (App. Div. 1974) (noting that the adult penal system in New Jersey encompassed three distinct institutions that fell under county jurisdiction “jails, workhouses and penitentiaries” and that at the time each of New Jersey’s twenty-one counties had a jail, and a few had workhouses but only Essex and Hudson counties had penitentiaries). See also N.J. L. Revision Comm’n, FINAL REPORT RELATING TO THE USE OF THE WORD ‘WORKHOUSE’ IN THE NEW JERSEY STATUTES, (Apr. 15, 2021) (recommending the elimination of the term “workhouse,” and “penitentiary,” where appropriate). See also Richard Khavkine, *Historians lament destruction of former penitentiary in North Caldwell*, THE STAR-LEDGER, June 12, 2011 (noting that “[p]risoners last did time in that penitentiary in 2004, two years after the county agreed to sell the site to a developer....”); and, *Hudson County Jail & Penitentiary*, N.J. City Univ. (last updated Mar. 18, 2023), <https://njcu.libguides.com/jail> (“The Hudson county Penitentiary in Secaucus closed in 1953 after a roof collapsed a year earlier.”).

⁶³ N.J. STAT. ANN. § 2A:4A-26.1 (waiver of jurisdiction in juvenile delinquency case without consent of juvenile); N.J. STAT. ANN. § 2A:4A-44.1 (agreements between department of corrections and county for incarceration of certain juveniles in county juvenile detention facility); N.J. STAT. ANN. § 2A:4A-44.2 (awarding of public health emergency credits to juveniles in State facility); N.J. STAT. ANN. § 2A:4A-44.4 (notification to victim of crime of release of juvenile from custody within 365 days of award of public health emergency credits; information); N.J. STAT. ANN. § 2A:161A-4 (conduct of search by persons of same sex and at location without observation by unauthorized persons); N.J. STAT. ANN. § 2C:29-10 (electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 2C:43-3.1 (additional assessments; collection and disposition by Victims of Crime Compensation Board); N.J. STAT. ANN. § 2C:46-1 (time and method of payment; condition of probation; transaction fees); N.J. STAT. ANN. § 2C:46-4 (fines, assessments, penalties and restitution; collection; disposition); N.J. STAT. ANN. § 11A:4-1.3 (exemption from civil service law enforcement examination requirement); N.J. STAT. ANN. § 11:9-2.1 (employment in correctional facility in county of 135,000 to 175,000); N.J. STAT. ANN. § 11:9-2.4 (inapplicability of act to current employees); N.J. STAT. ANN. § 24:6M-2 (definitions); N.J. STAT. ANN. § 26:2B-40 (drug treatment programs operating within State correctional facility or county jail); N.J. STAT. ANN. § 30:1B-6.2 (commission duties relative to

definition. The New Jersey Code of Criminal Justice defines a state correctional facility as “a State prison or *other penal institution*.”⁶⁴ The remaining definitions are set forth in Title 30, which contains statutes addressing institutions and agencies.

The Department of Corrections Act of 1976, contains statutes dedicated to “the protection of the public and for the care, custody, discipline and treatment of adult offenders committed to state correctional institutions or on parole.”⁶⁵ Within the *Act Concerning Inmates*, N.J.S. 30:1B-39, “State correctional facility” means “a correctional facility listed in section 8 of P.L. 1976, c. 98 (N.J.S. 30:1B-8).”⁶⁶ By cross-reference, the statute incorporates “any State institution and satellite

pre-release of inmates); N.J. STAT. ANN. § 30:1B-6.2a (inmate assistance in acquiring copy of birth certificate); N.J. STAT. ANN. § 30:1B-6.4 (notice of outstanding financial obligations as a result of sentence; deferred payments); N.J. STAT. ANN. § 30:1B-6.8 (promoting visitation for inmates who are primary caretaker parents; duties of commissioner; conditions); N.J. STAT. ANN. § 30:1B-6.10 (coordination of reentry preparation and other rehabilitative services for inmates in all State correctional facilities); N.J. STAT. ANN. § 30:1B-6.13 (mandatory annual in-service training program for correctional police officers in State correctional facilities; contents); N.J. STAT. ANN. § 30:1B-6.15 (issuance of non-driver identification card prior to release); N.J. STAT. ANN. § 30:1B-10.2 (access to drug treatment programs in State correctional facilities); N.J. STAT. ANN. § 30:1B-39 (definitions relating to inmates at State correctional facilities); N.J. STAT. ANN. § 30:1B-40 (suspected abuse of inmate by employee; report; contents); N.J. STAT. ANN. § 30:1B-41 (inmate abuse reporting program for State correctional facilities; establishment; provisions; designated contact person; report; review; investigation); N.J. STAT. ANN. § 30:1B-46 (policy to limit cross gender searches and surveillance in State correctional facilities); N.J. STAT. ANN. § 30:4-3.1 (residency requirement); N.J. STAT. ANN. § 30:4-8.6 (correctional facility assignment to consider proximity to family); N.J. STAT. ANN. § 30:4-8.10 (inmate visitation privileges); N.J. STAT. ANN. § 30:4-15.1 (correctional facility commissaries); N.J. STAT. ANN. § 30:4-16.6 (provision of medications to incarcerated persons with preexisting chronic conditions); N.J. STAT. ANN. § 30:4-82.6 (legislative findings and declarations; Isolated Confinement Restriction Act); N.J. STAT. ANN. § 30:4-82.7 (definitions relating to the use of isolated confinement); N.J. STAT. ANN. § 30:4-82.8 (limiting the use of isolated confinement in correctional facilities); N.J. STAT. ANN. § 30:4-91.3c (definitions); N.J. STAT. ANN. § 30:4-91.3d (wanted person checks); N.J. STAT. ANN. § 30:4-91.15 (program to record and analyze recidivism); N.J. STAT. ANN. § 30:4-92.1 (mandatory workforce skills training program; participants); N.J. STAT. ANN. § 30:4-92.2 (program of mandatory education); N.J. STAT. ANN. § 30:4-92.3 (Vocational Training Pilot Program); N.J. STAT. ANN. § 30:4-123.46 (application of act); N.J. STAT. ANN. § 30:4-123.59 (legal custody and supervision; conditions; signature on agreement; relief; release to state aid residential facility; assistance; disposition of fines); N.J. STAT. ANN. § 30:4-123.100 (awarding of public health emergency credits to inmates; declaration of public health emergency); N.J. STAT. ANN. § 30:4-127 (visitation of certain institutions); N.J. STAT. ANN. § 30:7E-1 (definitions); N.J. STAT. ANN. § 30:7E-2 (inmates of state and county correctional facilities and jails to be charged fees for medical treatment and medicines); N.J. STAT. ANN. § 30:7E-3 (reimbursement of state or county for medical expenses incurred on behalf of inmates covered by health insurance); N.J. STAT. ANN. § 30:8-16.6 (counties; participation; eligibility; placement goals; rules and regulations); N.J. STAT. ANN. § 34:15-37.4 (civilians working directly with inmates or detainees); N.J. STAT. ANN. § 36:2-189 (Corrections Officer Day); N.J. STAT. ANN. § 52:4B-44 (standards to ensure rights of crime victims); N.J. STAT. ANN. § 52:17B-171.13 (state juvenile correctional facility or county juvenile detention center); N.J. STAT. ANN. § 52:18A-78.5a (purposes for the undertaking of projects by the authority); N.J. STAT. ANN. § 52:27EE-28.2 (inspections of State correctional facilities; requirements) N.J. STAT. ANN. § 52:31-24 (responsibility for management of State-owned residential housing and establishment of housing program).

⁶⁴ N.J. STAT. ANN. § 2C:29-10. See discussion *infra* regarding penal institutions.

⁶⁵ N.J. STAT. ANN. § 30:1B-3.

⁶⁶ N.J. STAT. ANN. § 30:1B-8 (transferring eight correctional institutions to the DOC along with “any State institution and satellite facilities heretofore or hereafter established” by the DOC. At the time the statute was enacted, these institutions included New Jersey State Prison; East Jersey State Prison; Bayside State Prison; Garden State Reception and Youth Correctional Facility; Albert C. Wagner Youth Correctional Facility; Edna Mahan Correctional Facility for Women; William H. Fauver Youth Correctional Facility; and the Adult Diagnostic and Treatment Center).

facilities heretofore or hereafter established for any purpose” similar to ones the set forth in the statute.⁶⁷

The *Act Concerning Restrictions on Isolated Confinement in Correctional Facilities*, N.J.S. 30:4-82.7, includes a definition for the term “State correctional facility.” This Act defines a State correctional facility as “a State prison or *other penal institution* or an institution or facility designated by the commissioner as a place of confinement under section 2 of P.L. 1969, c.22 (C.30:4-91.2)”⁶⁸ The Legislature has authorized the Commissioner of the Department of Corrections to “designate as a place of confinement any available, suitable, and appropriate institution or facility whether owned by the State or otherwise....”⁶⁹

Finally, a definition for the term “state correctional facility” may be found in the *Act Concerning Wanted Person Checks of Inmates and Suspects*, N.J.S. 30:4-91.3c. For the purposes of this Act, the Legislature has defined “State correctional facility” as “a state prison or *other penal institution* or state-contracted halfway house.”⁷⁰

- *Penal Institution*

The term “penal institution” is found in forty-one statutes.⁷¹ The New Jersey statutes do

⁶⁷ *Id.*

⁶⁸ See N.J. STAT. ANN. § 30:4-91.2 (emphasis added).

⁶⁹ *Id.* (“The word ‘facility’ shall include private nonprofit community-based residential treatment centers which provide for the care, custody, subsistence, education, training and welfare of inmates....”).

⁷⁰ N.J. STAT. ANN. § 30:4-91.3 (emphasis added).

⁷¹ N.J. STAT. ANN. § 2A:153-3 (escaped county prisoner); N.J. STAT. ANN. § 160-10 (fugitives from justice found in this state); N.J. STAT. ANN. § 2A:161A-9 (subordination of procedures on personal searches to procedures of state’s penal institutions); N.J. STAT. ANN. § 2A:167-8 (sentenced individuals granted license to be at large from any penal institution); N.J. STAT. ANN. § 2C:29-10 (electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 2C:39-6 (exemptions); N.J. STAT. ANN. § 2C:43-10 (place of imprisonment); N.J. STAT. ANN. § 2C:52-23 (use of expunged records by DOC); N.J. STAT. ANN. § 26:2B-13 (powers of department); N.J. STAT. ANN. § 30:1-2 (Dept. of Human Servs); N.J. STAT. ANN. § 30:3-5 (order of precedence in expenditures); N.J. STAT. ANN. § 30:4-6.1 (prosecutor to be notified of escape from county or State penal institution); N.J. STAT. ANN. § 30:4-82.7 (definitions relating to the use of isolated confinement); N.J. STAT. ANN. § 30:4-91.3a (interim release from a State correctional institution or county penal institution); N.J. STAT. ANN. § 30:4-91.3c (defining state correctional facility as a State prison or other penal institution); N.J. STAT. ANN. § 30:4-116.1 (escape of prisoners from county penal institutions); N.J. STAT. ANN. § 30:4-123.51 (eligibility for parole from county penal institution or State Prison); N.J. STAT. ANN. § 30:4-123.51a (revocation of parole from a person paroled from a county penal institution); N.J. STAT. ANN. § 30:4-123.53a (written notice to prosecutor of anticipated release from county or State penal institution); N.J. STAT. ANN. § 30:4-123.54 (pre-parole reports); N.J. STAT. ANN. § 30:4-123.55 (review of pre-parole reports); N.J. STAT. ANN. § 30:8-13 (compensation of female guards in county penal institutions of the first class); N.J. STAT. ANN. § 30:8-17.1 (keepers or wardens in penal institutions); N.J. STAT. ANN. § 30:8-28.4 (compensation to persons in county penal institutions); N.J. STAT. ANN. § 40A:9-3 (discrimination by reason of age in county or municipal penal institutions); N.J. STAT. ANN. § 40A:9-117.6 (Sheriff’s officers in penal institutions); N.J. STAT. ANN. § 43:1-2 (no pension or subsidy to be paid to any person confined in a penal institution); N.J. STAT. ANN. § 43:7-8 (defining prison officer); N.J. STAT. ANN. § 43:10-18.15 (payments to dependents on behalf of those committed to penal institutions for crimes of moral turpitude); N.J. STAT. ANN. § 43:10-18.64 (payment of benefits to those committed to penal institutions for crimes of moral turpitude); N.J. STAT. ANN. § 43:22.28 (eligibility of benefits to persons actually committed to a penal institution for crimes involving moral turpitude); N.J. STAT. ANN. § 43:21-19 (definitions); N.J. STAT. ANN. § 46:31-6 (goods produced in the penal institutions of this state); N.J. STAT. ANN. § 52:14-11 (discrimination by reason of age exception for guards employed by any penal institution of this state); N.J. STAT. ANN. § 52:18A-19 (schedule for articles to be purchased not affecting purchase or use of products of the labor of persons of

not set forth a specific definition for the term “penal institution.”⁷² The absence of a definition necessitates an examination of the common law and the legislative context in which the term is employed to discern its meaning.

Historically, the term “penal institution” did not refer to a specific institution or facility, rather to a place of confinement after a person has been convicted of a crime.⁷³ Generically, the term has been used to identify both county and state operated facilities. In the 1860s a “county workhouse” was considered a penal institution.⁷⁴ By the mid-1900s, however, New Jersey State prisons were also referred to as penal institutions.⁷⁵

Until its repeal in 1979, New Jersey’s parole eligibility statute, N.J.S. 30:4-123.12, contained a definition for the term “penal institution.” This definition included “the New Jersey State Prison and any other State penal or correctional institution in this State to which offenders are sentenced for fixed terms of fixed minimum and maximum terms....”⁷⁶ Additionally, penal institutions included “other institutions of like character under the jurisdiction of the United States or of a State or States other than this State.”⁷⁷ At the time, the only “fixed-term sentence” permitted in the state prison system was a life sentence.⁷⁸ In this context, the reference “State penal or correctional institution” was to state institutions.⁷⁹

Finally, the term “penal institution” appears in New Jersey’s Uniform Criminal Extradition Law.⁸⁰ The extradition statute, N.J.S. 2A:160-10 provides, in relevant part, that:

[I]f the executive authority of any other state or district requests the extradition of any person charged in that state with murder, and that person is imprisoned in a

a penal institution); N.J. STAT. ANN. § 52:25-3 (no impact products of penal institutions); N.J. STAT. ANN. § 52:27B-61 (laws pertaining to purchase or use of labor of incarcerated inmates not affected by statute); N.J. STAT. ANN. § 52:31-12 (products of labor of penal institutions excepted); N.J. STAT. ANN. § 53:1-14 (record of fingerprints of persons confined in penal institutions); N.J. STAT. ANN. § 30:3-4(1) (bond issue for construction of institutions, including penal institutions); N.J. STAT. ANN. § 30:3-5(2) (bond issue for construction of institutions, including penal institutions).

⁷² Search conducted using Westlaw (adv:TE(“penal institution” /5 mean! or defin! or is).

⁷³ *Salley v. Firemen’s & Policemen’s Pension Fund Comm’n*, 124 N.J.L. 79 (Sup. Ct. 1940) (observing that a penal institution is a place of confinement for individuals who have been convicted of crimes - e.g., moral turpitude).

⁷⁴ *Bd. of Chosen Freeholders of Hudson Cnty. v. Layton*, 28 N.J.L. 244 (Sup. Ct. 1860) (noting that under a then existing statute New Jersey statute a “workhouse” [was] essentially a penal institution).

⁷⁵ *State v. Deegan*, 133 N.J.L. 263, 275 (1945) (recounting that at trial “[t]here was testimony that the defendant had been confined at Annandale, a penal institution.”); *State v. Morris*, 242 N.J. Super. 532 (App. Div. 1990) (noting that the State in its proofs identified “Leesburg State Prison is a large penal institution located in Cumberland County.”). See also *Mahoney v. Parole Bd.*, 10 N.J. (1952) (quoting subsection (c) of N.J.S. 30:4-123.12) (since repealed by L.1979, c. 441, § 27, eff. Apr. 21, 1960); and *Bonilla v. Heil*, 126 N.J. Super. 538, 542 (App. Div. 1974).

⁷⁶ *Bonilla v. Heil*, 126 N.J. Super. at 542.

⁷⁷ *Id.*

⁷⁸ *Id.* at 542.

⁷⁹ cf. N.J. STAT. ANN. § 2C:43-10(g); N.J. STAT. ANN. § 2C:43-11; N.J. STAT. ANN. § 30:4-116.1; N.J. STAT. ANN. § 30:4-123.51; N.J. STAT. ANN. § 30:4-123.51a; N.J. STAT. ANN. § 30:123.54(e); N.J. STAT. ANN. § 30:4-123.55(b); N.J. STAT. ANN. § 30:8-28.4(a) (each containing a reference to “county penal institutions”).

⁸⁰ N.J. STAT. ANN. §§ 2A:160-6 to -35. The New Jersey Uniform Criminal Extradition Law is based upon the Uniform Criminal Extradition Act. See 11 U.L.A. 61 (1936). *State v. Robbins*, 124 N.J. 282, 290 (1991) (discussing the history and origin of the uniform criminal extradition law).

penal institution or jail of this state for a term less than imprisonment for life, the governor of this state may deliver him or her up to the executive authority of the demanding state or district for the purpose of trial in said state or district....⁸¹

This reference stands as the singular appearance of the term “penal institution,” in the extradition statutes. When given a broad reading, it appears that the term penal institution includes both county and state institutions in which persons are serving less than a life sentence.

In 2021, the DOC published the “Offender and Characteristics Report,” and set forth the total number of inmates in each of New Jersey’s State Correctional Institutions and Satellite Units.⁸² Within the enumerated correctional facilities, the Report noted that 239 prisoners were housed at the Bayside Farm complex; 64 inmate were housed at the Jones Farm;⁸³ and 45 were housed at the East Jersey Camp.⁸⁴ Absent from this Report was any reference to persons in the custody of the DOC being housed at a quarry.

Youth Correctional Institution Complex

In 1976, when the DOC was created, it assumed control and supervision of the State’s eight correctional institutions.⁸⁵ In addition, the DOC was given authority over “[a]ny State institution and satellite facilities....”⁸⁶

The regulations governing the DOC define the term “youth complex.”⁸⁷ A youth complex is defined as a “State correctional facilities designated to house young adult offenders pursuant to N.J.S. 30:4-146.”⁸⁸ Additionally, a “young adult inmate” is defined as “any inmate sentenced to an indeterminate term at the Youth Correctional Complex....”⁸⁹ Finally, the Code of Criminal Justice defines “young adult offenders” as “[a]ny person who, at the time of sentencing, is less than 26 years of age and who has been convicted of a crime may be sentenced to an indeterminate term at the Youth Correctional Institution Complex, in accordance with R.S. 30:4-146 et. seq....”⁹⁰

⁸¹ N.J. STAT. ANN. § 2A:160-10 (emphasis added).

⁸² Marcus O. Hicks, Esq., Comm’r, Offender Characteristics Report, Ofc. of Compliance and Strategic Planning *5 (Jan. 2021).

⁸³ In November of 2022, the State reassigned the nineteen prisoners housed at this facility to other locations to streamline operations in light of the shrinking prison population. *See* Dana DiFilippo, *State moves inmates out of minimum security prison, as census drops statewide*, N.J. MONITOR, Nov. 29, 2022.

⁸⁴ *Id.*

⁸⁵ *See* N.J. STAT. ANN. § 30:1B-8 (New Jersey State Prison, East Jersey State Prison, Bayside State Prison, Garden State Reception and Youth Correctional Facility; Albert C. Wagner Youth Correctional Facility; Edna Mahan Correctional Facility for Women; William H. Fauver Correctional Facility; and Adult Diagnostic and Treatment Center, Avenel).

⁸⁶ *Id.*

⁸⁷ N.J.A.C. 10A:1-2; Letter from Dr. Jennifer LeBaron, Exec. Dir., Juvenile Justice Comm’n, to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n, *1 (Nov. 20, 2023) (on file with the NJLRC) [hereinafter LeBaron Letter].

⁸⁸ N.J.A.C. 10A:1-2.2; LeBaron Letter at *1.

⁸⁹ N.J.A.C. 10A:71-1.1; LeBaron Letter at *1.

⁹⁰ N.J. STAT. ANN. § 2C:43-5; LeBaron Letter at *1.

The Youth Correctional Institution Complex was comprised of several facilities. As set forth in N.J.S. 30:4-146, the Youth Correctional Institution Complex still includes references to the Youth Reception and Correctional Center, at Yardville; and the Youth Correctional Institutions at Bordentown and Annandale.⁹¹ Similar to the State prison statute, N.J.S. 30:4-136, the Legislature included a reference to “all new or additional institutions” designated by the appropriate authority where persons sentenced to the Youth Correctional Institution Complex may “be kept, housed or employed.”⁹²

Absent from the list of facilities operated by the DOC are quarries.

Outreach

In connection with this Report, Staff sought comments from knowledgeable individuals and organizations including: Office of the Attorney General; the American Civil Liberties Union – New Jersey; the New Jersey Association of Criminal Defense Lawyers; the County Prosecutors Association of New Jersey; the Office of the Attorney General - Corrections and State Police Section of the Division of Law; the Department of Corrections; Executive Director of External Operations, Department of Corrections; the Juvenile Justice Commission; Juvenile Justice Commission – Ombudsman; private practitioners; the New Jersey Administrative Office of the Court; the New Jersey County Warden’s Association; New Jersey Legal Services; the New Jersey Police Traffic Officer’s Association; Counsel to the Attorney General; the New Jersey State Association of Chiefs of Police; the Office of the Public Defender; the New Jersey State Bar Association; American Civil Liberties Union – New Jersey; New Jersey State Parole Board; the New Jersey Association of Correction; New Jersey Prison Watch, American Friends Service Committee; Prison Fellowship; the New Jersey Institute for Social Justice.

• Support and Clarification

The New Jersey State Parole Board “concur[s] with the elimination of the statutory references to quarries and the clarification of the language regarding where persons convicted of criminal offenses may be confined.”⁹³ The Juvenile Justice Commission also “support[s] the removal of the term ‘quarries’ from both definitions....”⁹⁴ The State Parole Board recommended, that the Commission’s proposed definition of State prison be further modified to incorporate a “reference to the institutions specified in N.J.S. 30:1B-8.”⁹⁵

Additionally, the State Parole Board confirmed that “the Youth Correctional Institution Complex is within the jurisdiction of the Department of Corrections, not the Juvenile Justice

⁹¹ N.J. STAT. ANN. § 30:4-146.

⁹² *Id.* See generally N.J. STAT. ANN. § 30:4-136 (defining State prison to include “all institutions... where [persons] sentenced to State Prison may from time to time be kept, housed or employed.”).

⁹³ Letter from Dina I. Rogers, Esq., Exec. Dir., N.J. State Parole Bd., to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Nov. 20, 2023) (on file with the NJLRC) [hereinafter Rogers Letter].

⁹⁴ LeBaron Letter at *1.

⁹⁵ Rogers Letter at *1. See *supra* note 66 and accompanying text.

Commission [sic].”⁹⁶ The Juvenile Justice Commission, in a separate writing made a similar observation.⁹⁷ Both entities cautioned against the incorporation of language referring to the Juvenile Justice Commission in the statutory definition of Youth correctional institution complex.⁹⁸ Although recognizing that the statutory provisions contained in N.J.S. 30:4-146 apply to matters that fall under the jurisdiction of the DOC, it provided a proposed statutory modification “as a courtesy.”⁹⁹

The State Parole Board’s proposed modifications of N.J.S. 30:4-136 and N.J.S. 30:4-146 are set forth in the Appendix to this Report.

The New Jersey Police Traffic Officer’s Association suggested that the statutes could utilize wording to refer to “[f]acilities presently administered... by the New Jersey Department of Corrections... to facilitate the confinement and/or rehabilitation of convicted persons.”¹⁰⁰

- *Opposition*

The Commission has not received any opposition to the proposed modifications.

Pending Bills

There are no bills pending that seek to amend the language of N.J.S. 30:4-136 or N.J.S. 30:4-146.

Conclusion

The Commission recommends the modification of N.J.S. 30:4-136 and N.J.S. 30:4-146 to remove the anachronistic references to quarries. Further, the modifications set forth in the Appendix propose changes to clarify and simplify the definitions of State prison and Youth Correctional Institution Complex to accurately reflect the current, and future, places of confinement for persons who are incarcerated.

⁹⁶ *Id.* (noting that “pursuant to N.J.S. 2C:43-5 (young adult offenders) “Any person who, at the time of sentencing, is less than 26 years of age and who has been convicted of a crime may be sentenced to an indeterminate term at the Youth Correctional Institution Complex...” and that “the statutory provision pertains to young adult offenders **convicted of a crime not juveniles who have been adjudicated delinquent....**”).

⁹⁷ LeBaron Letter at *1 (noting further the absence of the term Youth Correctional Institution Complex from the Juvenile Justice Commission Statutes and the Code of Juvenile Justice including: N.J.S. 52:17B-170.e.; N.J.S. 52:17B-171.b(1); N.J.S. 52:17B-171.13a; N.J.S. 52:17B-174.a.; N.J.S. 2A:4A-44; and N.J.S. 2A:4A-26.1.f(1)).

⁹⁸ Rogers Letter at *2; LeBaron Letter at *2 (definition of Youth Correctional Institution Complex “should not include any reference to the JJC or its facilities.”).

⁹⁹ *Id.*

¹⁰⁰ E-mail from Rich Maxwell, Exec. Dir., N.J. Police Traffic Officer’s Ass’n to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n (Oct. 03, 2023, 1:40 PM EST) (on file with the NJLRC).

Appendix

The proposed modifications to **N.J.S. 30:4-136** and **N.J.S. 30:4-146** are presented with underlining and the proposed deletions are presented with ~~striketrough~~, are as follows:

N.J.S. 30:4-136. State prison defined

~~The State Prison shall include the existing prison in Trenton or wherever it may hereafter be located, and all institutions, farms, camps, **quarries** or grounds designated by the State Board where convicts sentenced to the State Prison may from time to time be kept, housed or employed.~~

References to state prison shall include any institution or facility specified in N.J.S. 30:1B-8 and any institution or facility designated by the Commissioner of the Department of Corrections as a place of confinement for adult offenders pursuant to N.J.S. 30:4-91.2.¹⁰¹

Comments

The proposed definition of State prison removes the archaic reference to quarries and the direct reference to New Jersey's original State prison. The proposed incorporation of a cross-reference to N.J.S. 30:4-91.2 introduces language that recognizes the diverse range of institutions and facilities available to the Commissioner of the Department of Corrections to detain persons convicted of a crime and sentenced to a state prison term. Finally, the proposed language is meant to align with original intent of the Legislature – by empowering the Commissioner of the Department of Corrections to designate places of confinement without the necessity of additional legislative action.

N.J.S. 30:4-146. Youth correctional institution complex defined

~~The Youth Correctional Institution Complex shall include the existing Youth Reception and Correctional Center, Yardville, and the Youth Correctional Institutions at Bordentown and Annandale and all new or additional institutions, farms, camps, **quarries** or grounds designated by the State board, where persons sentenced to the Youth Correctional Institution Complex may, from time to time, be kept, housed or employed.~~

References to the Youth Correctional Institution Complex shall include any institution or facility designated by the Commissioner of the Department of Corrections as a place of confinement for young adult offenders pursuant to N.J.S. 30:4-91.2.

¹⁰¹ Letter from Dina I. Rogers, Esq., Exec. Dir., N.J. State Parole Bd., to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm'n (Nov. 20, 2023) (on file with the NJLRC). Letter from Dr. Jennifer LeBaron, Exec. Dir., Juvenile Justice Comm'n, to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm'n (Nov. 20, 2023) (on file with the NJLRC).

Comments

The proposed definition of Youth Correctional Institution Complex removes the archaic reference to quarries and the direct references to specific correctional institutions. The proposed incorporation of a cross-reference to N.J.S. 30:4-91.2 introduces language that recognizes the diverse range of institutions and facilities available to the Commissioner of the Department of Corrections to detain persons convicted of a crime and sentenced to a state prison term. Finally, the proposed language is meant to align with original intent of the Legislature – by empowering the Commissioner of the Department of Corrections to designate places of confinement without the necessity of additional legislative action.

For Reference

N.J.S. 30:4-91.2. Designation by commissioner or agent; “facility” defined

The commissioner or his duly authorized agent, may designate as a place of confinement any available, suitable, and appropriate institution or facility whether owned by the State or otherwise, and may at any time transfer a person from one place of confinement to another.

The word “facility” shall include private nonprofit community-based residential treatment centers which provide for the care, custody, subsistence, education, training and welfare of inmates.

Any such private nonprofit community-based residential treatment center must be certified annually by the commissioner as a secure and appropriately supervised place of confinement.

Credits: L.1969, c. 22, § 2, eff. April 23, 1969. Amended by L.1976, c. 35, § 2, eff. June 15, 1976.